

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

IN RE: Bair Hugger Forced Air Warming
Products Liability Litigation

MDL No. 15-2666 (JNE/FLN)

THIS DOCUMENT RELATES TO:

Carolyn Mackey

(0:17-cv-04637-JNE-FLN)

**DECLARATION OF DANIEL C. BURKE IN SUPPORT OF PLAINTIFF'S
RESPONSE TO DEFENDANTS' MOTION TO DISMISS**

I, Daniel C. Burke, declare as follows:

1. I am an attorney at Bernstein Liebhard LLP and Counsel for Plaintiff Carolyn Mackey in the above-captioned matter.
2. I submit this affidavit in opposition to Defendants' Motion to Dismiss for Failure to Comply with Pretrial Order No. 14 [Dkt. 1189] filed on April 5, 2018.
3. Ms. Mackey, on behalf of her deceased husband Mr. Mackey, contacted Bernstein Liebhard LLP in October of 2015 regarding injuries that were allegedly caused by the Bair Hugger patient warming device.
4. Medical records pertaining to Mr. Mackey's treatment were obtained by Bernstein Liebhard LLP through its third party medical records retrieval company. Those records indicated that a Bair Hugger device was used during his initial orthopedic surgery.
5. This case was filed on October 11, 2017 to comply with the statute of limitations

deadline.

6. Contact attempts have been made to Ms. Mackey to obtain information necessary to complete and submit the Plaintiff Fact Sheet.
7. Bernstein Liebhard LLP has not obtained the information necessary to complete and submit the Plaintiff Fact Sheet.

Pursuant to 28 U.S.C. § 1746(2), I declare under penalty of perjury that the foregoing is true and correct.

DATED: April 10, 2018

Respectfully submitted,

BERNSTEIN LIEBHARD LLP

By: /s/ Daniel C. Burke

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